

EXHIBIT

SE 9

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**VOTER REFERENCE FOUNDATION,
LLC, et al.,**

and

HOLLY STEINBERG,
Plaintiffs,

V.

HECTOR BALDERAS, in his official capacity as New Mexico Attorney General,

and

MAGGIE TOULOUSE OLIVER, in her
Official capacity as New Mexico
Secretary of State,
Defendants.

CASE NO: 1:22-cv-00222-JB-KK

DECLARATION OF EDWARD D. GREIM

DECLARATION OF EDWARD D. GREIM

Edward D. Greim, pursuant to the 28 U.S.C. § 1746, states that the following is true and correct:

a) Pursuant to the New Mexico Inspection of Public Records Act (“IPRA”), on April 26, 2022, I made requests to the New Mexico Secretary of State’s Office and the New Mexico Attorney General’s Office for certain public records. True and correct copies of those requests are attached to this declaration as D1 (to the Attorney General) and D2 (to the Secretary of State).

b) On May 11, 2022, Patrick Rostock, the Records Custodian for the Secretary of State's Office, produced some documents responsive to the request attached as D2. That production included the following documents now marked as Plaintiffs' Exhibits for purposes of the pending Preliminary Injunction Hearing: P4, P6, P7, P8, and P9. The documents attached hereto marked as Plaintiffs' exhibits P4, P6, P7, P8, and P9 are true and correct copies of records

produced by the Secretary of State on May 11, 2022, in response to the IPRA request attached as D2.

c) On May 18, 2022, Brittney Martinez, the Records Custodian for the Attorney General's Office, produced some documents responsive to the request attached as D1. That production included the following documents now marked as Plaintiffs' Exhibits for purposes of the pending Preliminary Injunction Hearing: P12, P13, and P14. The documents attached hereto marked as Plaintiffs' exhibits P12, P13, and P14 are true and correct copies of records produced by the Attorney General's Office on May 18, 2022, in response to the IPRA request attached as D1.

d) On May 26, 2022, Brittney Martinez, the Records Custodian for the Attorney General's Office, produced additional documents responsive to the request attached as D1. That production included the following documents now marked as Plaintiffs' Exhibits for purposes of the pending Preliminary Injunction Hearing: P11. The document attached hereto as Plaintiffs' exhibit P11 is a true and correct copy of a record produced by the Attorney General's Office on May 26, 2022, in response to the IPRA request attached as D1.

e) On May 27, 2022, I caused a letter to be sent on behalf of Voter Reference Foundation to the New Mexico Secretary of State providing notice to the Secretary and the State of New Mexico that it is in violation of the National Voter Registration Act. That letter also included additional requests for voter data on behalf of Voter Reference Foundation. A true and correct copy of that letter is attached hereto as Exhibit P10.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2022.



Edward D. Greim

Exhibit D1



Graves Garrett LLC

Edward D. Greim
816.256.4144 phone
816.817.0864 fax
edgreim@gravesgarrett.com

April 26, 2022

Via E-Mail Only

Records Custodian
New Mexico Attorney General's Office
PO Drawer 1508
Santa Fe, NM 87504-1508
IPRArequestrecords@nmag.gov

Re: IPRA Records Request

Dear Custodian of Records:

This firm represents the Voter Reference Foundation ("VRF"). VRF hereby requests a copy of the following records pursuant to the Inspection of Public Records Act ("IRPA").

1. Any criminal referral from the New Mexico Secretary of State, from March 1, 2021, to the present, referencing the Voter Reference Foundation or Local Labs.
2. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into Voter Reference Foundation or Local Labs.
3. Any criminal referral from the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.
4. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into the subject of any referral from the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.



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Please provide your response, and any responsive documents that are immediately available, within three (3) business days. Please make your production on a rolling basis if necessary. If at least some records can be produced without objection or are clearly responsive, please produce those documents first. Please produce all electronic data in its native format, preserving all metadata.

Please send responses and communications regarding this request to the following address, in electronic form if possible, or to the following mail address:

edgreim@gravesgarrett.com

Edward D. Greim

Graves Garrett LLC

1100 Main Street, Suite 2700

Kansas City, MO 64105

If you deny any part of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there are any portions of this request that you find objectionable for any reason, please notify me in writing of the objections immediately, identifying by date and subject what documents are covered by the objection, and the specific legal authority for the objection. Please provide a privilege log for records that you refuse to release as privileged or otherwise closed.

If a public record contains exempt and nonexempt materials, please separate the exempt and nonexempt materials and make the nonexempt materials available for inspection. Please consider each request separately, so that any objection to one request will not unnecessarily delay responses to the remainder of the requests.

VRF agrees to pay the applicable fees for copying and transmitting the records. Please provide a receipt indicating the charges for each document.

Finally, we wish to address at the outset two legal points that may arise as you consider your response. First, we are aware of N.M.S.A. § 14-2-1.A(4), an exception to IRPA for “law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime.” However, in the case of VRF, the Secretary is not a confidential source and both the Attorney General and Secretary have publicly confirmed that a referral was made. Additionally, certain investigative materials were publicly attached to the Attorney General’s response to the Motion for Preliminary Injunction in Case No. 1:22-cv-02222-JB-KK pending in the U.S. District Court for the District of New Mexico. *See* Dkt. 13, Exs. 1-4.



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Second, occasionally government defendants object to open records requests because of the pendency of litigation. There is pending litigation between VRF and the Attorney General; litigation counsel for the Attorney General's office, Olga Serafimova, is copied on this letter. However, this is not a valid objection, particularly given the Attorney General's explicit guidance to the contrary:

Sometimes questions come up regarding the relationship between the Act and requests for records in the context of discovery in civil litigation. For example, an inspection request under the Act may be made instead of or in addition to a discovery request. Generally, the two schemes for obtaining records are separate and independent; the availability of records under the Act does not affect a litigant's discovery rights or vice versa. Unless an applicable exception to the right to inspect public records applies, **a public body may not deny an inspection request just because the requester is engaged in litigation against the public body or has asked for the same records in discovery.**

Attorney General's Inspection of Public Records Act Compliance Guide at 34 (emphasis added).

Thank you for your attention, and we will look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward D. Greim', written in a cursive style.

Edward D. Greim

cc: Olga Serafimova, Esq.

Exhibit D2



Graves Garrett LLC

Edward D. Greim
816.256.4144 phone
816.817.0864 fax
edgreim@gravesgarrett.com

April 26, 2022

Via E-Mail Only

Records Custodian
New Mexico Secretary of State
New Mexico Capitol Annex North
325 Gaspar, Suite 300
Santa Fe, NM 87501
Sos.elections@state.nm.us

Re: IPRA Records Request

Dear Custodian of Records:

This firm represents the Voter Reference Foundation ("VRF"). VRF hereby requests a copy of the following records pursuant to the Inspection of Public Records Act ("IPRA").

1. Any criminal referral made by the New Mexico Secretary of State, from March 1, 2021, to the present, referencing the Voter Reference Foundation or Local Labs.
2. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into Voter Reference Foundation or Local Labs.
3. Any criminal referral made by the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.
4. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into the subject of any referral from the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.
5. A record sufficient to show, for each request for New Mexico voter data made in 2021 or 2022, the Date of Request, Requestor, Organization Requesting,



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Information Requested, Number of Records, Total Cost for Records, Date Requestor Notified, Date Payment Received, Date of Issue, and Method of Delivery (“Voter Request Processing Table”). If you contend that you cannot or will not produce a new Voter Request Processing Table pursuant to the IRPL, or that producing it will be unduly burdensome, then, without waiving our rights and remedies to obtain this data, we request that in the interim you produce to VRF the last such Table you produced to any requester in 2021, and the most recent such Table you produced to any requester in 2022.

6. Every version of the form for requesting voter information, variously known as the Voter Data Request Form, or Voter Information Authorization (singly or collectively, the “Request Form”), that your office has used or promulgated in 2020, 2021, and 2022.
7. With respect to the Request Form, all records referencing or relating to drafts, or actual or potential edits or revisions between January 1, 2020 and today’s date.
8. All records relating to the “Secretary of State’s investigation” to which the Secretary of State refers on Dkt. 13, page 7, in the case of *VRF, et al. v. Balderas, et al.*, Case No. 1:22-cv-00022-JB-KK, in the U.S. Dist. Court of the District of New Mexico.
9. All records relating to, referencing, retrieving, forwarding, or commenting on the documents shown as Exhibits 1, 2, 3, or 4 to the Secretary’s Response in Opposition to the Motion for Preliminary Injunction, Dkt. 13 in the case of *VRF, et al. v. Balderas, et al.*, Case No. 1:22-cv-00022-JB-KK, in the U.S. Dist. Court of the District of New Mexico. This request excludes and does not request any communications between the Secretary of State’s office and its litigation counsel.
10. All records that consist of, relate to, or reference a communication between any officer or employee of the Secretary of State and any member of the media, including but not limited to any reporter for ProPublica, regarding VRF, Local Labs, or the case of *VRF, et al. v. Balderas, et al.*, Case No. 1:22-cv-00022-JB-KK, in the U.S. Dist. Court of the District of New Mexico.
11. All records reflecting a draft, revision, edit, or comment relating to the Secretary’s public statement on June 30, 2017, which included the comment, “I will not release any other voter information like names, addresses or voting history unless and until I am convinced the information will not be used for nefarious or unlawful purposes, and only if I am provided a clear plan for how it will be secured.”
12. All records reflecting a draft, revision, edit, or comment relating to the Secretary’s public statements, including but not limited to her statement to ProPublica, regarding VRF or Local Labs.



13. All records reflecting any inquiry or investigation in 2021 or 2022 into the propriety or lawfulness of the request, the ultimate end user of the data requested, or the purpose for which the data would be used, with respect to requests made by any of the following organizations: Provest, LLC; Catalyst; L2 Inc.; Target Smart Communications; i360; Data Targeting; Aristotle International; or Veterans.

Please provide your response, and any responsive documents that are immediately available, within three (3) business days. Please make your production on a rolling basis if necessary. If at least some records can be produced without objection or are clearly responsive, please produce those documents first. Please produce all electronic data in its native format, preserving all metadata.

Please send responses and communications regarding this request to the following address, in electronic form if possible, or to the following mail address:

edgreim@gravesgarrett.com

Edward D. Greim

Graves Garrett LLC

1100 Main Street, Suite 2700

Kansas City, MO 64105

If you deny any part of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there are any portions of this request that you find objectionable for any reason, please notify me in writing of the objections immediately, identifying by date and subject what documents are covered by the objection, and the specific legal authority for the objection. Please provide a privilege log for records that you refuse to release as privileged or otherwise closed.

If a public record contains exempt and nonexempt materials, please separate the exempt and nonexempt materials and make the nonexempt materials available for inspection. Please consider each request separately, so that any objection to one request will not unnecessarily delay responses to the remainder of the requests.

VRF agrees to pay the applicable fees for copying and transmitting the records. Please provide a receipt indicating the charges for each document.

Finally, we wish to acknowledge that there is pending litigation between VRF and the Attorney General; litigation counsel for the Attorney General's office, Olga Serafimova, is therefore copied on this letter. However, the pendency of litigation is



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not a valid objection to an IRPA request, particularly given the Attorney General's explicit guidance to the contrary:

Sometimes questions come up regarding the relationship between the Act and requests for records in the context of discovery in civil litigation. For example, an inspection request under the Act may be made instead of or in addition to a discovery request. Generally, the two schemes for obtaining records are separate and independent; the availability of records under the Act does not affect a litigant's discovery rights or vice versa. Unless an applicable exception to the right to inspect public records applies, **a public body may not deny an inspection request just because the requester is engaged in litigation against the public body or has asked for the same records in discovery.**

Attorney General's Inspection of Public Records Act Compliance Guide at 34 (emphasis added).

Thank you for your attention, and we will look forward to your prompt response.

Sincerely,



Edward D. Greim

cc: Olga Serafimova, Esq.

From: [Rostock, Patrick, SOS](#)
 To: [Vigil, Mandy, SOS](#)
 Cc: [Pino, Sharon, SOS](#)
 Subject: FW: [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks
 Date: Friday, March 11, 2022 8:36:00 AM
 Attachments: [image001.jpg](#)

Hi Mandy and Sharon,

Per Dylan's contact with the AG, we are not fulfilling records requests from VoteRef. Any information on how to proceed with this would be appreciated. I am also happy to forward this to the AG but I'm unsure what contact we have who is handling this. The request is clearly trying to create an aggregate picture of the voter rolls on election day 2020, which lends credence to the idea that VoteRef and Erin Clements/New Mexico Audit Force are working in concert.

Best,

Email Signature Logo



Patrick Rostock | Paralegal & Records Custodian

New Mexico Office of the Secretary of State
 325 Don Gaspar, Ste. 300 | Santa Fe NM 87501
 Desk: (505) 827-7941
patrick.rostock@state.nm.us

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Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Elections, SOS, SOS <SOS.Elections@state.nm.us>

Sent: Thursday, March 10, 2022 5:07 PM

To: Rostock, Patrick, SOS <Patrick.Rostock@state.nm.us>

Subject: [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks

On Mar 10, 2022 @ 05:06 pm, data@voterreferencefoundation.com wrote:

Good afternoon,

Can you please provide a status update on the request?

Thank you,

Voter Reference Foundation

Ticket Overview

[Reply Now](#)

PRIORITY High

CREATOR data@voterreferencefoundation.com

ASSIGNEE Patrick Rostock

Ticket Commands let you take control of your help desk remotely. For a full list of available

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commands and usage [click here](#).

Examples: #close, #add 5m, #assign to bob, #priority high

Ticket History

On Feb 16, 2022 @ 09:13 am, Charlotte Chinana wrote:

Assigned to Patrick Rostock.

On Feb 15, 2022 @ 04:06 pm, data@voterreferencefoundation.com wrote:

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Election Official,

Please provide us with the total count, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021.

Thank you,

Voter Reference Foundation

:la

Information of Requestor

Name: David Michael Lippert Organization: Local Labs
Address: 1611 Melrose Ave., St. Louis Park, MN 55426 Phone: (952) 905 - 8078
Email Address: mike.lippert@locallabs.com Date: 03 / 29 / 2021

From: [Pino, Sharon, SOS](#)
To: [Rostock, Patrick, SOS](#)
Subject: FW: [EXTERNAL] Voter Ref Foundation
Date: Thursday, April 28, 2022 10:59:34 AM
Attachments: [image008.jpg](#)
[image009.jpg](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)

Email Signature Logo



Sharon L. Pino | Deputy Secretary of State and Chief of Staff

New Mexico Office of the Secretary of State
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501

Phone: (505) 827-3636

sharon.pino@state.nm.us

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From: Pino, Sharon, SOS
Sent: Wednesday, April 6, 2022 3:11 PM
To: 'Reyes, Steve' <SReyes@sos.ca.gov>
Cc: ToulouseOliver, Maggie, SOS <Maggie.TOliver@state.nm.us>
Subject: RE: [EXTERNAL] Voter Ref Foundation

Good afternoon Steve,

We have been working with the Chief Deputy AG of Criminal Affairs, Anne Kelly. I have listed her contact information below. Please let me know if you need anything else.

Anne Kelly

akelly@nmag.gov

work cell: (505) 318-7929

Have a good day!

Sharon

Email Signature Logo



Sharon L. Pino | Deputy Secretary of State and Chief of Staff

New Mexico Office of the Secretary of State
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501

Phone: (505) 827-3636

sharon.pino@state.nm.us

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From: ToulouseOliver, Maggie, SOS <Maggie.TOliver@state.nm.us>
Sent: Wednesday, April 6, 2022 1:20 PM
To: 'Reyes, Steve' <SReyes@sos.ca.gov>

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exhibitsticker.com

Cc: Pino, Sharon, SOS <Sharon.Pino@state.nm.us>

Subject: RE: [EXTERNAL] Voter Ref Foundation

Hi Steve!

Yes! I'm cc'ing my Deputy SOS Sharon Pino here – she's working directly with our AG office and can help make that connection.

Thanks for reaching out,

Maggie



Maggie Toulouse Oliver | Secretary of State

New Mexico Office of the Secretary of State

325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501

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From: Reyes, Steve <SReyes@sos.ca.gov>

Sent: Wednesday, April 6, 2022 11:52 AM

To: ToulouseOliver, Maggie, SOS <Maggie.TOliver@state.nm.us>

Subject: [EXTERNAL] Voter Ref Foundation

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon Secretary!

I hope you are doing well.

We recently saw the NPR story related to the organization referenced above and their plans to post voter file data on their website. The article mentioned you were working with your Attorney General on this matter. We are doing the same.

Do you have a contact there that our Deputy Attorney General Tony O'Brien (Anthony.O'Brien@doj.ca.gov) can reach out to?

Thank you very much!

Steve Reyes

Chief Counsel

California Secretary of State

E: sreyes@sos.ca.gov



From: [Curtas, Alex, SOS](#)
To: [Megan O'Matz](#)
Subject: Re: [EXTERNAL] request for interview
Date: Friday, January 7, 2022 2:46:37 PM

How about 11:30am MST? which I think is 12:30p CST if I'm not mistaken

Alex Curtas | Communications Director

New Mexico Secretary of State Maggie Toulouse Oliver
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501
Cell: 505.469.2783 | Desk: 505.827.3613
alex.curtas@state.nm.us

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From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Thursday, January 6, 2022 3:22 PM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: RE: [EXTERNAL] request for interview

Yes thank you! I have an appointment at 1 pm central time Monday, if we could chat before then...

- Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Thursday, January 6, 2022 4:16 PM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: RE: [EXTERNAL] request for interview

Hey Megan,

Would sometime Monday before 2pm MST work for you to chat with the Secretary on this?

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Wednesday, January 5, 2022 9:38 AM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: RE: [EXTERNAL] request for interview

Thank you thank you,
Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

EXHIBIT

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Sent: Wednesday, January 5, 2022 10:34 AM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: RE: [EXTERNAL] request for interview

Hey Megan,

I haven't forgotten about this! I'm meeting with the Secretary tomorrow and I'll get a few times that would work for her to do an interview. I know she's interested.

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Wednesday, December 29, 2021 9:16 AM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: [EXTERNAL] request for interview

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Alex,
Happy new year.
Would Secretary Oliver grant me a brief phone interview for our story about VoteRef.com – generally about the dangers of disinformation in the election process?
We think the story would be stronger with her voice.
Please let me know if she's agreeable to this and when she can find time in her schedule.
Thank you,

Megan O'Matz
Reporter for ProPublica, Wisconsin
Cell: (954) 873-7576
megan.omatz@propublica.org
<https://www.propublica.org/midwest>

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Tuesday, December 21, 2021 10:20 AM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: New Mexico possible charges

Hey Megan,

The issue relates to the transfer and publication of the voter data. This is the crux: "We do not believe providing this personal voter data on a private website that intends to spread misinformation about the 2020 General Election meets the definition of appropriate use as

either for a “governmental purpose,” “election related,” or “election campaign purposes.”

I've attached our referral letter which lays it all out. Let me know if I can provide any clarification on this. Thanks! -A

Alex Curtas | Communications Director

New Mexico Secretary of State Maggie Toulouse Oliver
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501
Cell: 505.469.2783 | Desk: 505.827.3613
alex.curtas@state.nm.us

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From: Megan O'Matz <Megan.OMatz@propublica.org>

Sent: Friday, December 17, 2021 12:29 PM

To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. Much appreciated.

Question – can you elaborate on how the publication of voter data online may violate state law?

(VoteRef likely will argue that they are using it for election and research purposes.)

Thank you again,

Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Sent: Friday, December 17, 2021 12:40 PM

To: Megan O'Matz <Megan.OMatz@propublica.org>

Subject: Re: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

On the legal issue: Our office believes this publication of voter data by VoteRef.com is in direct violation of the New Mexico Election Code. We do not believe that posting New Mexican's private voting information online is legal use of this information. We will refer the use of this information by VoteRef.com to the New Mexico Attorney General for criminal investigation and prosecution.

I've also attached the email correspondence and the original request and receipt.

Let me know if this works for what you need.

Thanks!

Alex

Alex Curtas | Communications Director

New Mexico Secretary of State Maggie Toulouse Oliver
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501
Cell: 505.469.2783 | Desk: 505.827.3613
alex.curtas@state.nm.us

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From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Thursday, December 16, 2021 1:05 PM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, thank you....
Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Thursday, December 16, 2021 2:03 PM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

Looking into all this now. Thanks for sending that email correspondence with LocalLabs. I'll get back to you asap after we track down that email chain and the payment receipt. And we're looking into the legal issue as well and I'll get an answer for you on that, too.

-A

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Thursday, December 16, 2021 11:44 AM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Alex,
I see that your law says the voter rolls can be used only for
"Governmental or election and election campaign purposes only." Unlawful use
of lists is a 4th degree felony.

The VoteRef folks say online: “ The purpose of this website is to provide public access to official government data pertaining to elections, including voter registration rolls, with a goal of encouraging greater voter participation in all fifty states. Our system of government is based upon citizen participation. We believe the people, in effect, own this data and have a legal right to see it in an understandable and transparent form. ” [Vote Reference](#)

Is this an acceptable use under New Mexico law?

Thank you again,

Megan O'Matz

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

megan.omatz@propublica.org

<https://www.propublica.org/midwest>

From: Megan O'Matz

Sent: Thursday, December 16, 2021 12:30 PM

To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex.

I found this attached document on the VoteRef web site, showing someone from LocalLabs contacted Lauren Hutchinson, SOS compliance officer, to access the records.

- Can you send me an unredacted version of this correspondence so I can see who from LocalLabs was asking for the data? LocalLabs provides data to partisan news web sites. (I'm not asking for user ID or account info.)
- Can you provide me with the payment receipt showing who paid the \$5,000 for the data?
- Is there anything improper under New Mexico law about accessing the data this way or posting it all online? I appreciate any link to the relevant statute.

Thank you again for your time in helping us report accurately and fairly on this important issue.

Megan O'Matz

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

megan.omatz@propublica.org

<https://www.propublica.org/midwest>

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Thursday, December 16, 2021 10:55 AM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

Simply put, VoteRef.com is misleading the public about New Mexico's voter rolls and are perpetuating misinformation. They reflect a lack of understanding about how the process of voter list maintenance works. These attempts by political operatives to cast doubt on the 2020 elections are an affront to our democracy and to the professionals who run our elections throughout the country. This most recent attempt that you've brought to our attention from VoteRef.com is no different.

To quickly answer your specific questions:

- The "discrepancy" they are alleging stems from their misunderstanding about how voter rolls are maintained by election administrators. The data sets they seem to be comparing were captured at two different points in time. The voting history data from 4/15 is a reflection of the counts at that point in time and not of the data as it was on Election Day or on any other day.
- No, our Office has not been contacted by this group to discuss their findings; likely because that would not serve their intended goal of spreading misinformation. New Mexico law requires that this data be requested through a specific process affirming lawful use of this data. However, we do not have a record of this group requesting voter data from our office directly, which brings into question how they obtained this data, if the data has not been manipulated, and if they are using it for a lawful purpose.

Because accusations from political operatives like this are meant to impugn the integrity of our voter rolls, I'd also just want to note that our Office is confident that the processes and procedures already in place for voter list maintenance not only follow all state and federal guidelines and keep our voter rolls clean and up-to-date, but go above and beyond those requirements.

During the voter list maintenance process New Mexico's election administrators, as required by law, must maintain and update their voter rolls continually -- everything from checking obituaries, receiving monthly reports from NM Vital Statistics about deceased individuals, and suspending or reinstating felons based on conviction notices from the Department of Corrections. This is done in conjunction with the proactive, pro-voter measures already in place in New Mexico, such as automated voter registration, all-mail special elections, and online and same day voter registration. All of these systems combine to ensure

that voter information is up-to-date in New Mexico, resulting in our state having some of the “cleanest” voter records in the United States.

Please let me know if that works for what you need.

Thanks,

Alex

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Wednesday, December 15, 2021 11:01 AM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. I am still reporting and don't have a publication date yet but appreciate your help as soon as convenient.

Best,
Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Wednesday, December 15, 2021 11:39 AM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

I'm looking into this now with our staff. Do you have a deadline for this?

Thanks,

Alex

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Tuesday, December 14, 2021 2:56 PM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: [EXTERNAL] voter integrity question from ProPublica

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Alex,

I'm a reporter with ProPublica and am looking into an organization called VoteRef.com that is posting tens of thousands of voter histories online nationwide, including New Mexico.

The group is alleging a 3,844 discrepancy between the number of ballots reported cast Nov 3, 2020 in New Mexico vs the number of voters shown in the voter history.

[Vote Reference](#) = All states [2020 General Election | Vote Reference](#) = New Mexico

The group says turnout for New Mexico Nov 3 was 928,172. But voter histories obtained by VoteRef on April 15, 2021 show 924,328 participating in that election. That is a difference of 3,844

- What could be the possible explanations for the “discrepancy” in New Mexico?
- And, did your office have any correspondence with this group about their findings or methodology? Can you please provide copies to me?

Thank you,

Megan O’Matz

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

megan.omatz@propublica.org

<https://www.propublica.org/midwest>

From: [Curtas, Alex, SOS](#)
To: [Megan O'Matz](#)
Subject: RE: [EXTERNAL] RE: New Mexico possible charges
Date: Wednesday, March 2, 2022 8:48:00 AM

Hey Megan!

I don't have any updates from our side that I know of. But Jerri Mares is the Comms Director at the AG office. Here's her info:

jmares@nmag.org

Jerri Mares
Director of Communications & Legislative Affairs
Office of the Attorney General
Office (505) 717-3543 Cell (505) 321-4372

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Monday, February 28, 2022 10:48 AM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: [EXTERNAL] RE: New Mexico possible charges

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Alex,
Sorry for the delay. We are working to publishing our story about VoteRef later this week. Any update on the attorney general and whether they will investigate or pursue charges? If not, do you have a media contact over there at the attorney general's office?
Thank you!

Megan O'Matz

Reporter for ProPublica, Wisconsin
Cell: (954) 873-7576
megan.omatz@propublica.org
<https://www.propublica.org/midwest>

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Tuesday, December 21, 2021 10:20 AM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: New Mexico possible charges

Hey Megan,

The issue relates to the transfer and publication of the voter data. This is the crux: "We do not believe providing this personal voter data on a private website that intends to spread

EXHIBIT

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exhibitsticker.com

misinformation about the 2020 General Election meets the definition of appropriate use as either for a “governmental purpose,” “election related,” or “election campaign purposes.”

I've attached our referral letter which lays it all out. Let me know if I can provide any clarification on this. Thanks! -A

Alex Curtas | Communications Director

New Mexico Secretary of State Maggie Toulouse Oliver
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501
Cell: 505.469.2783 | Desk: 505.827.3613
alex.curtas@state.nm.us

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From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Friday, December 17, 2021 12:29 PM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. Much appreciated.

Question – can you elaborate on how the publication of voter data online may violate state law?

(VoteRef likely will argue that they are using it for election and research purposes.)

Thank you again,
Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Friday, December 17, 2021 12:40 PM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: Re: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

On the legal issue: Our office believes this publication of voter data by VoteRef.com is in direct violation of the New Mexico Election Code. We do not believe that posting New Mexican's private voting information online is legal use of this information. We will refer the use of this information by VoteRef.com to the New Mexico Attorney General for criminal investigation and prosecution.

I've also attached the email correspondence and the original request and receipt.

Let me know if this works for what you need.

Thanks!

Alex

Alex Curtas | Communications Director

New Mexico Secretary of State Maggie Toulouse Oliver

325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501

Cell: 505.469.2783 | Desk: 505.827.3613

alex.curtas@state.nm.us

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From: Megan O'Matz <Megan.OMatz@propublica.org>

Sent: Thursday, December 16, 2021 1:05 PM

To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, thank you....

Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Sent: Thursday, December 16, 2021 2:03 PM

To: Megan O'Matz <Megan.OMatz@propublica.org>

Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

Looking into all this now. Thanks for sending that email correspondence with LocalLabs. I'll get back to you asap after we track down that email chain and the payment receipt. And we're looking into the legal issue as well and I'll get an answer for you on that, too.

-A

From: Megan O'Matz <Megan.OMatz@propublica.org>

Sent: Thursday, December 16, 2021 11:44 AM

To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Alex,

I see that your law says the voter rolls can be used only for
"Governmental or election and election campaign purposes only." Unlawful use

of lists is a 4th degree felony.

The VoteRef folks say online: " The purpose of this website is to provide public access to official government data pertaining to elections, including voter registration rolls, with a goal of encouraging greater voter participation in all fifty states. Our system of government is based upon citizen participation. We believe the people, in effect, own this data and have a legal right to see it in an understandable and transparent form. " [Vote Reference](#)

Is this an acceptable use under New Mexico law?

Thank you again,

Megan O'Matz

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

megan.omatz@propublica.org

<https://www.propublica.org/midwest>

From: Megan O'Matz

Sent: Thursday, December 16, 2021 12:30 PM

To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex.

I found this attached document on the VoteRef web site, showing someone from LocalLabs contacted Lauren Hutchinson, SOS compliance officer, to access the records.

- Can you send me an unredacted version of this correspondence so I can see who from LocalLabs was asking for the data? LocalLabs provides data to partisan news web sites. (I'm not asking for user ID or account info.)
- Can you provide me with the payment receipt showing who paid the \$5,000 for the data?
- Is there anything improper under New Mexico law about accessing the data this way or posting it all online? I appreciate any link to the relevant statute.

Thank you again for your time in helping us report accurately and fairly on this important issue.

Megan O'Matz

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

megan.omatz@propublica.org

<https://www.propublica.org/midwest>

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Thursday, December 16, 2021 10:55 AM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

Simply put, VoteRef.com is misleading the public about New Mexico's voter rolls and are perpetuating misinformation. They reflect a lack of understanding about how the process of voter list maintenance works. These attempts by political operatives to cast doubt on the 2020 elections are an affront to our democracy and to the professionals who run our elections throughout the country. This most recent attempt that you've brought to our attention from VoteRef.com is no different.

To quickly answer your specific questions:

- The "discrepancy" they are alleging stems from their misunderstanding about how voter rolls are maintained by election administrators. The data sets they seem to be comparing were captured at two different points in time. The voting history data from 4/15 is a reflection of the counts at that point in time and not of the data as it was on Election Day or on any other day.
- No, our Office has not been contacted by this group to discuss their findings; likely because that would not serve their intended goal of spreading misinformation. New Mexico law requires that this data be requested through a specific process affirming lawful use of this data. However, we do not have a record of this group requesting voter data from our office directly, which brings into question how they obtained this data, if the data has not been manipulated, and if they are using it for a lawful purpose.

Because accusations from political operatives like this are meant to impugn the integrity of our voter rolls, I'd also just want to note that our Office is confident that the processes and procedures already in place for voter list maintenance not only follow all state and federal guidelines and keep our voter rolls clean and up-to-date, but go above and beyond those requirements.

During the voter list maintenance process New Mexico's election administrators, as required

by law, must maintain and update their voter rolls continually -- everything from checking obituaries, receiving monthly reports from NM Vital Statistics about deceased individuals, and suspending or reinstating felons based on conviction notices from the Department of Corrections. This is done in conjunction with the proactive, pro-voter measures already in place in New Mexico, such as automated voter registration, all-mail special elections, and online and same day voter registration. All of these systems combine to ensure that voter information is up-to-date in New Mexico, resulting in our state having some of the "cleanest" voter records in the United States.

Please let me know if that works for what you need.

Thanks,

Alex

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Wednesday, December 15, 2021 11:01 AM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. I am still reporting and don't have a publication date yet but appreciate your help as soon as convenient.

Best,
Megan

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Wednesday, December 15, 2021 11:39 AM
To: Megan O'Matz <Megan.OMatz@propublica.org>
Subject: RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

I'm looking into this now with our staff. Do you have a deadline for this?

Thanks,

Alex

From: Megan O'Matz <Megan.OMatz@propublica.org>
Sent: Tuesday, December 14, 2021 2:56 PM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>

Subject: [EXTERNAL] voter integrity question from ProPublica

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Hi Alex,

I'm a reporter with ProPublica and am looking into an organization called VoteRef.com that is posting tens of thousands of voter histories online nationwide, including New Mexico.

The group is alleging a 3,844 discrepancy between the number of ballots reported cast Nov 3, 2020 in New Mexico vs the number of voters shown in the voter history.

[Vote Reference](#) = All states [2020 General Election | Vote Reference](#) = New Mexico

The group says turnout for New Mexico Nov 3 was 928,172. But voter histories obtained by VoteRef on April 15, 2021 show 924,328 participating in that election. That is a difference of 3,844

- What could be the possible explanations for the "discrepancy" in New Mexico?
- And, did your office have any correspondence with this group about their findings or methodology? Can you please provide copies to me?

Thank you,

Megan O'Matz

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

megan.omatz@propublica.org

<https://www.propublica.org/midwest>

From: [Curtas, Alex, SOS](#)
To: [Bastock, Patrick, SOS](#)
Subject: Re: [EXTERNAL] FW: 2020 Otero County Election Audit
Date: Friday, March 4, 2022 1:23:43 PM
Attachments: [image001.png](#)
[image002.png](#)

Here's the full email exchange.

Alex Curtas | Communications Director
 New Mexico Secretary of State Maggie Toulouse Oliver
 325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501
 Cell: 505.469.2783 | Desk: 505.827.3613
alex.curtas@state.nm.us

Follow us on [Facebook](#) + [Twitter](#)

From: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Sent: Friday, March 4, 2022 1:23 PM
To: Maxwell, N <nmaxwell@alamogordonevents.com>
Cc: Holmes, Robyn <rholmes@co.otero.nm.us>
Subject: Re: [EXTERNAL] FW: 2020 Otero County Election Audit

Hey Nicole,

I had my team do another check to make sure we weren't missing anything. And I can confirm again that our office has no record of providing voter data to Erin Clements/Hughs or New Mexico Audit Force. Further, if any individual or organization requested and received voter data from our office and signed the required affidavit that the voter data was for a purpose authorized by law and has now utilized that data for a purpose not authorized, or made available to a 3rd party for an unlawful purpose, we intend to make a criminal referral to the AG's Office, as we have against other nefarious actors. Improperly obtaining and improperly using voter data in NM is a felony offense.

Thanks,

Alex

Alex Curtas | Communications Director
 New Mexico Secretary of State Maggie Toulouse Oliver
 325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501
 Cell: 505.469.2783 | Desk: 505.827.3613
alex.curtas@state.nm.us

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From: Maxwell, Nicole <NMaxwell@alamogordonevents.com>
Sent: Friday, March 4, 2022 10:29 AM
To: Curtas, Alex, SOS <Alex.Curtas@state.nm.us>
Cc: Holmes, Robyn <rholmes@co.otero.nm.us>
Subject: [EXTERNAL] FW: 2020 Otero County Election Audit

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
 I've CC'd Robyn so she can be in the loop on this.

Nicole Maxwell
 Reporter
 Alamogordo Daily News
 Cell Phone 575-415-6605

From: erin hughes <erin_hughes@yahoo.com>
Sent: Friday, March 4, 2022 10:11 AM
To: Maxwell, Nicole <NMaxwell@alamogordonevents.com>
Subject: Re: 2020 Otero County Election Audit

Thank you for clarifying, Nicole. The answer is no. I'm not using the web-based source. I am using the SOS's original voter registration database which was provided directly by her office.

I'm merely pointing out that the SOS apparently provides the same voter database to these people who run this website. And these people publish the whole thing online with a lot more personal information than we ever show anyone. So, it's hard for her to pretend she has a problem with our canvassing process, when she is apparently ok with the data being made public and accessible by anyone who may or may not have legitimate intentions.

I'm glad you'll still join us. I will send out an email and ask if there is a volunteer who would be willing to talk about their experiences and have you join them as they complete canvassing a packet. I may not have an answer by our canvass tomorrow - but I'm pretty sure I can have something set up for next Saturday.

Thank you,
 Erin

On Friday, March 4, 2022, 09:40:01 AM CST, Maxwell, Nicole <nmaxwell@alamogordonevents.com> wrote:

Erin,

So this is the source you're using or that you're checking info against? Just trying to be as accurate as possible.

I had no idea there that many Nicole Maxwells floating around truth be told.

Also, without camera, I would like to hang with the canvassers one day to see what they are doing and possibly to talk to them about their experiences so far. Identities can be left anonymous. Like: "B is a canvasser here's hi take on things..." That sort of thing. Just let me know when and where.

Thanks again,

Nicole Maxwell
 Reporter
 Alamogordo Daily News
 Cell Phone 575-415-6605

From: erin hughes <erin_hughes@yahoo.com>
Sent: Friday, March 4, 2022 8:26 AM
To: Maxwell, Nicole <NMaxwell@alamogordonevents.com>
Subject: Re: 2020 Otero County Election Audit

Ok. Due to safety concerns that have arisen due to intimidation directed at our canvassers, I don't think it's wise to publish photos.

If I could direct your attention to one other thing. If you go to the website <https://voterx.com/> and type in your name, find yourself on the list that comes up, and click on your name, you'll get the following page:

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https://voteref.com/voters/a9c86c08-f46e-4122-a879-621153f67e05

VoteRef.com

RETURN TO SEARCH

Home > Registered Voters > New Mexico > Dona Ana > LAS CRUCES > ERIN ANNE CLEMENTS

Election	Recorded Vote	State	County	Precinct
2020 General Election	+ Voted	New Mexico	Not Provided by State	Not Provided by State

The information on this website about this voter, including records of this voter's voting history was provided to **Voter Reference Foundation LLC ("VRF") by the New Mexico Secretary of State's Bureau of Elections ("Bureau") on April 15, 2021. The information is publicly available [here](#).** The information published here by VRF appears exactly as provided by the Bureau. By publishing Bureau records verbatim, VRF does not state, represent, suggest, or imply that this voter voted or that this voter's ballot was counted or not counted. Additionally, the registration information of any voter who is in the Safe At Home program (hereinafter referred to as a "protected voter") must be removed from the publicly available voter list by the New Mexico Secretary of State. If you believe the information provided to VRF by the Bureau is inaccurate, or if you believe that you or any person listed on VoteRef.com is a protected voter whose protected information should not appear on VoteRef.com, please immediately contact the Bureau by emailing sos.elections@state.nm.us or calling 505-827-3600. For assistance with the process of becoming a protected voter, click [here](#) (Safe At Home program). Upon receipt of official documentation confirming your or any person's protected voter status sent to us at privacy@voteref.com, VRF will remove the protected information from VoteRef.com.

Registration Address
[Redacted]

Registration Date
[Redacted]

Birthdate
[Redacted]

Party Affiliation
[Redacted]

Registration Status
Active

Precinct
[Redacted]

All data from New Mexico Secretary of State

Voter New Search...

Note that this website publishes your name, address, birth year, precinct, party affiliation, registration date, and whether or not you voted. The site claims to have been given all this data by the NM Secretary of State's Office. Also note that anyone could type your name into this website and get that information. We put more limited information than the SOS is currently making accessible to everyone in the world on a form that no one but myself and the canvassers at the door will see. The SOS claims of having concerns about private information being shared by our canvass appear to be nothing more than a smear campaign against people who are simply trying to determine the health of the voter registration database that she maintains.

Thank you,
Erin Clements

On Friday, March 4, 2022, 08:48:02 AM CST, Maxwell, Nicole <nmaxwell@alamogordodailynews.com> wrote:

Thanks. Have a god one.
The primary reason for me asking to go with the canvassers was to get photos.
Thanks again.

Nicole Maxwell
Reporter
Alamogordo Daily News
Cell Phone 575-415-6605

From: erin hughes <erin_hughes@yahoo.com>
Sent: Friday, March 4, 2022 7:44 AM
To: Maxwell, Nicole <NMaxwell@alamogordodailynews.com>
Subject: Re: 2020 Otero County Election Audit

The list of voters came from the Secretary of State.

I'd also like to draw your attention to the Otero County Commission meeting minutes from November 18, 2021 where the Otero County Commission unanimously voted to "join efforts with New Mexico Audit Force as well as a coalition to demand election audits on the local, county level."

So when our canvassers say they're assisting the county by canvassing the rolls. That's 100% accurate and in accordance with the resolution passed by the Commissioners. Just like our canvassers have been saying.

Thank you,
Erin Clements
On Friday, March 4, 2022, 08:35:18 AM CST, Maxwell, Nicole <nmaxwell@alamogordodailynews.com> wrote:

Erin,
Thanks for getting back to me so quickly. One more question. Where did the list of voters your group are using for the canvass come from?

Thanks,

Nicole Maxwell
Reporter
Alamogordo Daily News
Cell Phone 575-415-6605

From: erin hughes <erin_hughes@yahoo.com>
Sent: Thursday, March 3, 2022 6:01 PM
To: Maxwell, Nicole <NMaxwell@alamogordodailynews.com>
Subject: Re: 2020 Otero County Election Audit

Nicole,

Thank you for reaching out.

I have attached a training document we use to train our canvassers. You will also find a sample form that our canvassers fill out for each address where the residents agree to participate in a voluntary survey. You will see that there is less personal information on the form than you will find in a simple online phonebook search. There is no information pertaining to race or political affiliation.

We typically spend half an hour to an hour training each canvasser. We work in pairs and try to pair new people up with those who have experience so there is often another 2-hours of on-the-job-training following our initial training before getting started. We stress we are never to ask who a person voted for, simply how they cast a ballot - early in person, absentee, or in-person on election day to check against the voter rolls. We are not to engage in any kind of political conversation, and if a person doesn't want to participate or becomes hostile, we smile, thank them, and walk away. We consult with law enforcement on a regular basis.

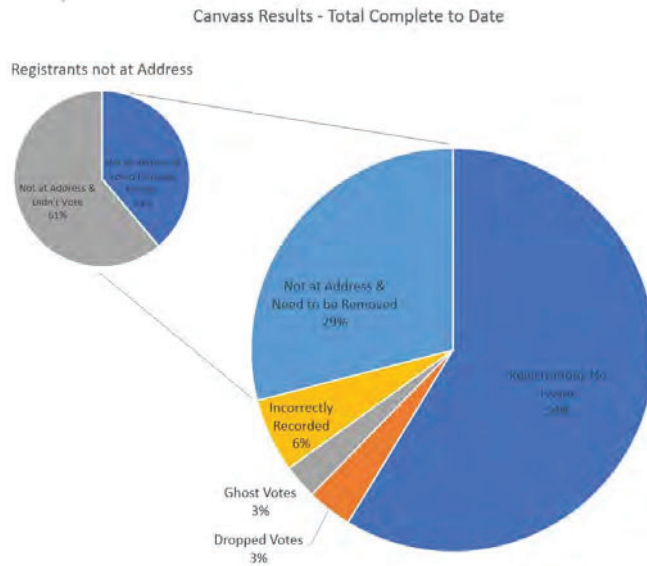
Recent alleged complaints against the Otero canvass appear to be coordinated and lodged by political operatives, creating false narratives that the canvassers cannot mention that the county commissioned the audit. I would draw your attention to the Otero County Commission meeting minutes dated November 18, 2021. You will find that the Commission unanimously passed a resolution to join New Mexico Audit Force through a coalition effort to audit/canvass Otero County.

Regardless of the explicit authorization to audit/canvass, at no time do the canvassers ever state they are employees of the county, but rather state they are volunteers assisting the county to check the accuracy of the voter rolls. This is entirely consistent with the County's resolution.

One particular example of a frivolous complaint was brought by Amy Buckley. Buckley claimed to be "intimidated" in a tick-tock video that the SOS referenced, yet voluntarily agreed to participate in the optional survey as our canvassers requested. In fact, Buckley let our canvassers know that one of the people registered to vote at her address has not lived there in years. So, there are questions concerning Buckley's veracity of feeling intimidated since she chose to participate in the voluntary survey and her answers support our findings that the voter rolls are out of date at best.

More egregious is that Buckley published my name and phone number (which is not publicly available) at the end of the tick-tock video which has been referenced by the SOS. That has resulted in me receiving at least two dozen threatening messages (including death threats) which are being investigated by the Otero County Sheriff and the FBI. Three of our canvassers have been harassed both out in public and online as well.

Our canvass is showing that there are significant problems with the Here is a summary of the results of our canvass current as 2/26/2022:



We'd be pleased to have you join a canvassing team to see our process, however we cannot allow you to take pictures, report names of any of our canvassers, or report where we meet because of the harassment and death threats that we are receiving. If those terms are acceptable to you, please let me know and I can provide you with more details on how you can join us. We canvass on Saturday mornings.

Please let me know if you have any additional questions.

Sincerely,
Erin Clements
575.680.4004

On Thursday, March 3, 2022, 03:49:32 PM CST, Maxwell, Nicole <nmaxwell@alamogordodailynews.com> wrote:

Erin,

I am a reporter with the Alamogordo Daily News. I have a few questions for you. First is I would like to see, if possible, the training materials and list of questions the canvassers are asking Otero County residents. I would also like to join the canvassers one day for maybe an hour or so just to see how it is done and to get some photos of the canvassers in action.

Thanks,

Nicole Maxwell
Reporter
Alamogordo Daily News
Cell Phone 575-415-6605



May 27, 2022

Via Electronic Mail Only

The Hon. Maggie Toulouse Oliver
New Mexico Secretary of State
325 Don Gaspar, Suite 300
Santa Fe, NM 87501

New Mexico Department of State
Attn: Bureau of Elections
Sos.elections@state.nm.us

**Re: Notice of Violation of National Voter Registration Act &
Request for Records**

Dear Secretary Toulouse Oliver:

We represent the Voter Reference Foundation (“VRF”) and write on its behalf. You are receiving this letter because you are the designated chief election official under the NVRA. This letter serves as statutory notice to the New Mexico Secretary of State and the State of New Mexico that they are in violation of the National Voter Registration Act (“NVRA”), specifically its public inspection provision, 52 U.S.C. § 20507(i)(1). Voter registration data, including registration lists, fall within the scope of this requirement and must be made available for public inspection. New Mexico law prohibits access to voter registration data for all but a few limited purposes, in violation of the NVRA’s edict that the State must “make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.” 52 U.S.C. § 20507(i)(1).

On February 15, 2022, VRF requested information related to the number of registered voters that voted in the November 3, 2020 election and have subsequently been placed in an inactive, canceled, deleted, or removed status between 11/3/20 and 4/13/21. See Exhibit A. The records requested relate to “the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters” and are therefore subject to the NVRA’s public inspection requirement. To date, the Secretary of State has not made the requested data available for inspection



Graves Garrett LLC

Notice of NVRA Violation

May 27, 2022

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and has taken the position that it will not fulfill *any* requests from VRF, including the February 15, 2022 request. See Ex. A.

BACKGROUND

The Secretary of State is the chief election officer of the state, N.M. Stat. § 1-2-1(A), and is responsible for developing, implementing, establishing, and supervising New Mexico's statewide computerized voter registration system in compliance with HAVA to facilitate voter registration and to provide a central database containing voter registration information for New Mexico. N.M. Stat. § 1-5-30(A).

VRF previously requested voter registration records from the Secretary. Ex. A. The Secretary never fulfilled that request and has taken the position that it will not fulfill any requests for information from VRF. *Id.* VRF also obtained voter data from a previous request that Local Labs filed on its behalf.

VRF uses voter data and information to increase election transparency and participation, furthering the purposes of the NVRA to ensure the accuracy and currency of official lists of eligible voters. It does this by combining the data with those of other states, and making this nationwide data set publicly searchable by all those who associate with VRF by agreeing to use the data for election-related and non-commercial purposes. The Secretary reacted to VRF's work by attacking VRF in the press, threatening criminal enforcement, making it clear that she disagrees with VRF's mission, and on account of that mission, making clear that she will not release any records to VRF.

PUBLIC INSPECTION VIOLATIONS

The NVRA requires each State to maintain for at least 2 years and "make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official voter lists of eligible voters." 52 U.S.C. § 20507(i)(1). Those "records" which must be made available under the NVRA include the "file maintenance list" and "voter data" as those terms are defined in N.M. Stat. § 1-5-2, as well as "voter data" as that term is used in N.M. Stat. § 1-4-5.5. Both the information obtained from the Local Labs request and the information sought in the February 15, 2021 request regarding the removal of voters from the rolls are "records" as that term is defined in the NVRA.



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(i) New Mexico's restrictions on public inspection of certain types of voter data are preempted by the NVRA.

On February 15, 2022, VRF requested "the total count, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021." Ex. A. The NVRA specifically requires states to make reasonable efforts to maintain the accuracy of the rolls, including by removing the names of ineligible voters from the official lists of eligible voters due to the death of the registrant or a change in the residence of the registrant to a place outside the jurisdiction in which he or she is registered. 52 U.S.C. § 20507(a)(4). Thus, documents reflecting or related to this maintenance function are "records" which must be made available for public inspection under the NVRA. 52 U.S.C. 50507(i)(1) (public inspection requirement applies to "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters...").

Yet § 1-4-5.5 does not provide any right to inspect the "file maintenance list" as that term is defined in N.M. Stat. § 1-5-2, regardless of the purpose motivating the request. The public inspection right under the NVRA is an unqualified right of access. Because New Mexico law lacks any provision for public inspection of the "file maintenance list", a "record" subject to the NVRA's public inspection requirement, it is in violation of federal law.

(ii) The Secretary's refusal to respond to VRF's February 15, 2022 request violates the NVRA's public inspection provision.

Additionally, the Secretary's office never responded to VRF's request and internally told staff that "we are not fulfilling records requests from VoteRef." Ex. A. To be very clear, VRF is ready and willing to sign the same version of the affidavit signed by Local Labs in April 2021, which expressly allows the sharing and use of data for VRF's purposes, and which the Director of Elections stated it would still accept. However, the Secretary has a policy of refusing to share data with VRF. By failing or refusing to provide the requested records, the Secretary's office has violated the NVRA's public inspection provision.



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REQUESTS FOR RECORDS

Finally, pursuant to your obligations under the NVRA, 52 U.S.C. § 20507(i) and New Mexico law, N.M. Stat. § 1-4-5.5, please make available to us the following records concerning “the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency” of New Mexico’s official eligible voter lists:

1. A complete list, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020 General Election, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) status, or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021, including total count of same.
2. Current voter registration data, including voter history, for all active, inactive, suspended, and cancelled status voters (including any registration status other than active).

VRF’s intended election use comprises two distinct projects. For its first project, just as VRF publishes voter data for many other states, and as it recently published voter data in New Mexico, VRF intends to publish the requested information online for election related purposes, but it will only publish the personal information of voters online if VRF is granted relief in *Voter Reference Foundation, et al. v. Balderas, et al.*, case number 1:22-CV-00222 in the United States District Court for the District of New Mexico (the “Federal Litigation”) or in any other legal proceeding.

For its second project, VRF intends to analyze the records, information, and data provided in response to the above requests in order to engage in a discrepancy review of the New Mexico voter rolls. VRF intends to publish this analysis online without disclosing the personal information of any individual voter. VRF will comply with this non-public-disclosure promise for the data it uses on its second project regardless of whether it prevails in the Federal Litigation. And again, for the sake of clarity, no personal information of any individual voter will be published online unless VRF is granted relief in the Federal Litigation or in any other legal proceeding.



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If you deny this request in whole or in part for any reason, please notify us in writing indicating the basis of your denial.

Signed Voter Information Authorization forms for each of the above requests are attached to this letter as Exhibit B. Please contact us to facilitate payment for the fulfillment of these requests.

CONCLUSION

The State and your office are required to correct the violations identified herein within 20 days of receipt of this notice, as each violation occurred within 120 days of June 7, 2022, the date of New Mexico's primary. 52 U.S.C. § 20510(b)(2). If the State and your office do not take specific action to correct these violations within 20 days of this notice, VRF reserves any and all rights against your office and the State of New Mexico. VRF may seek recourse via a lawsuit, 52 U.S.C. § 20510(b), and seek an award of its attorney's fees, expenses, and costs incurred in pursuing that action. 52 U.S.C. § 20510(c).

Because VRF is currently in litigation with the State regarding related issues, we have copied the Secretary of State's counsel of record, Olga Serafimova, on this correspondence. Please contact me at your earliest convenience to advise whether or not your office and/or the State of New Mexico intends to correct these violations.

Respectfully,

Edward D. Greim

cc: Olga Serafimova, Esq., New Mexico Attorney General's Office
Sharon Pino, Deputy Secretary of State
Mandy Vigil, Elections Director
Gina Swoboda, Executive Director of VRF
Carter Harrison IV, Esq., Counsel to VRF

Enclosures:

Ex. A, March 11, 2022 Email re: Not Fulfilling VRF Requests
Ex. B, May 27, 2022 Voter Information Authorization Forms

From: [Rostock, Patrick, SOS](#)
To: [Vigil, Mandy, SOS](#)
Cc: [Pino, Sharon, SOS](#)
Subject: FW: [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks
Date: Friday, March 11, 2022 8:36:00 AM
Attachments: [image001.jpg](#)

Hi Mandy and Sharon,

Per Dylan's contact with the AG, we are not fulfilling records requests from VoteRef. Any information on how to proceed with this would be appreciated. I am also happy to forward this to the AG but I'm unsure what contact we have who is handling this. The request is clearly trying to create an aggregate picture of the voter rolls on election day 2020, which lends credence to the idea that VoteRef and Erin Clements/New Mexico Audit Force are working in concert.

Best,

Email Signature Logo



Patrick Rostock | Paralegal & Records Custodian

New Mexico Office of the Secretary of State
 325 Don Gaspar, Ste. 300 | Santa Fe NM 87501
 Desk: (505) 827-7941
patrick.rostock@state.nm.us

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From: Elections, SOS, SOS <SOS.Elections@state.nm.us>

Sent: Thursday, March 10, 2022 5:07 PM

To: Rostock, Patrick, SOS <Patrick.Rostock@state.nm.us>

Subject: [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks

On Mar 10, 2022 @ 05:06 pm, data@voterreferencefoundation.com wrote:

Good afternoon,

Can you please provide a status update on the request?

Thank you,

Voter Reference Foundation

Ticket Overview

[Reply Now](#)

PRIORITY High

CREATOR data@voterreferencefoundation.com

ASSIGNEE Patrick Rostock

Ticket Commands let you take control of your help desk remotely. For a full list of available

commands and usage [click here](#).

Examples: #close, #add 5m, #assign to bob, #priority high

Ticket History

On Feb 16, 2022 @ 09:13 am, Charlotte Chinana wrote:

Assigned to Patrick Rostock.

On Feb 15, 2022 @ 04:06 pm, data@voterreferencefoundation.com wrote:

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Election Official,

Please provide us with the total count, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021.

Thank you,

Voter Reference Foundation

:la



Voter Data Request Form

Please select one of the following:

☐ Electronic File ☐ Printed List ☐ Mailing Labels

VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

Please indicate the purpose of this request:

☐ Governmental Use

☐ Campaign Use

☒ Election Related

Please indicate the type of file that you are requesting:

☒ Statewide

☐ District _____

☐ County(s) _____

☐ Other: _____

Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts

(all districts associated with a voter)

☒ Voting History

(elections a voter has participated in)

☒ Method Voted

(i.e. absentee, early or Election Day)

☒ Other*:

Current Voter Registration data, including voter history for all active, inactive, suspended, and cancelled status voters (including any registration status other than active)

*If you request information that is not available in the voter system you will be notified before request is fulfilled.

Information of Requestor

Name: Gina Swoboda

Organization: Voter Reference Foundation

Address: 1901 Butterfield Road, Suite 120, Downers Grove, IL 60515

Phone: (844) 302 - 2109

Email Address: data@voterreferencefoundation.com

Date: 05 / 27 / 2022

Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Signature of Requestor

For Office Use Only

Total Cost: \$ _____ Date Received: _____ / _____ / _____ Date Completed: _____ / _____ / _____

Comments: _____ Receipt Number: _____



Voter Data Request Form

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(elections a voter has participated in)

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(i.e. absentee, early or Election Day)

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Signature of Requestor

For Office Use Only

Total Cost: \$ _____ Date Received: _____ / _____ / _____ Date Completed: _____ / _____ / _____

Comments: _____ Receipt Number: _____

5/24/22, 9:36 AM

The Office of New Mexico Attorney General Mail - Confidential



Trujillo, Anna <atrujillo@nmag.gov>

Confidential

Anna Trujillo <atrujillo@nmag.gov>
To: ccmmonroney@fbi.gov

Wed, Jan 26, 2022 at 9:40 AM

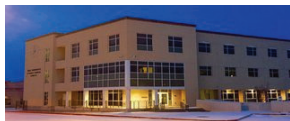
 **2021-12-20 Ltr to Kelly related to Voter Data Criminal Violation Referral.pdf**
1538K

<https://mail.google.com/mail/u/0/?ik=4e85189ff2&view=pt&search=all&permmsgid=msg-f%3A1723036066190052476&simpl=msg-f%3A1723036066190052476>

EXHIBIT

P11

exhibitmaker.com



Serafimova, Olga <oserafimova@nmag.gov>

Call re Voter Reference Foundation

3 messages

Anthony OBrien <Anthony.OBrien@doj.ca.gov>

Fri, Apr 8, 2022 at 7:31 PM

To: "oserafimova@nmag.gov" <oserafimova@nmag.gov>, "akelly@nmag.gov" <akelly@nmag.gov>

Dear Ms. Serafimova and Ms. Kelly:

My name is Tony O'Brien, and I am a Deputy Attorney General in the California Attorney General's Office. I received your names through the California Secretary of State's Office and the pleadings in the *Voter Reference Foundation (VoteRef) v. Balderas* matter.

If you have a chance next week, I would be interested in speaking with you briefly about New Mexico's response to Voter Reference Foundation and the resulting litigation, as the California Secretary of State's Office is weighing its options in response to the VoteRef's intention to post voter information from every state on its website.

Please let me know when you may be available for a short call, and I will set up a conference line. Thank you very much in advance for your cooperation.

Regards,

Tony

Anthony P. O'Brien

Deputy Attorney General

California Department of Justice

Government Law Section

1300 I Street, 17th Floor

Sacramento, CA 95814

(916) 210-6002

anthony.obrien@doj.ca.gov

EXHIBIT

P12

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Serafimova, Olga <oserafimova@nmag.gov>

Mon, Apr 11, 2022 at 1:36 PM

To: Anthony OBrien <anthony.obrien@doj.ca.gov>
Cc: "akelly@nmag.gov" <akelly@nmag.gov>

Hi Anthony,
I'd be happy to discuss with you. I am available any time for the rest of today if that works for you.
Thanks,
Olga.

[Quoted text hidden]

--

Olga M. Serafimova
Senior Civil Counsel
Executive Office
New Mexico Office of the Attorney General
office: (505) 490-4046
cell: (505) 401-6398
P.O. Drawer 1508
Santa Fe, NM 87501-1508

Anthony OBrien <Anthony.OBrien@doj.ca.gov>
To: "Serafimova, Olga" <oserafimova@nmag.gov>
Cc: "akelly@nmag.gov" <akelly@nmag.gov>

Mon, Apr 11, 2022 at 1:56 PM

Great! I can call you at 3:00 pm Mountain Time/2:00 pm Pacific time. I will circulate a conference line.

Thank you,

Tony

From: Serafimova, Olga <oserafimova@nmag.gov>
Sent: Monday, April 11, 2022 12:36 PM
To: Anthony OBrien <Anthony.OBrien@doj.ca.gov>
Cc: akelly@nmag.gov
Subject: Re: Call re Voter Reference Foundation

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

[Quoted text hidden]

[Quoted text hidden]



Serafimova, Olga <oserafimova@nmag.gov>

Conference call to discuss Voter Reference Foundation v. Balderas

1 message

Anthony OBrien <Anthony.OBrien@doj.ca.gov>

Mon, Apr 11, 2022 at 2:02 PM

To: "Serafimova, Olga" <oserafimova@nmag.gov>, "akelly@nmag.gov" <akelly@nmag.gov>

Call-In No.: (888) 204-5984

Participant Code: 9561366

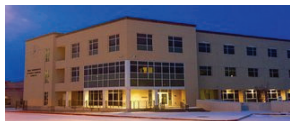
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 **invite.ics**
3K

EXHIBIT

P13

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Serafimova, Olga <oserafimova@nmag.gov>

RE: Accepted: Conference call to discuss Voter Reference Foundation v. ... @ Mon Apr 11, 2022 3pm - 3:30pm (MDT) (Anthony OBrien)

4 messages

Anthony OBrien <Anthony.OBrien@doj.ca.gov>
To: "oserafimova@nmag.gov" <oserafimova@nmag.gov>

Mon, Apr 11, 2022 at 3:32 PM

-----Original Appointment-----

From: Google Calendar <calendar-notification@google.com> **On Behalf Of** oserafimova@nmag.gov

Sent: Monday, April 11, 2022 1:10 PM

To: Anthony OBrien

Subject: Accepted: Conference call to discuss Voter Reference Foundation v. ... @ Mon Apr 11, 2022 3pm - 3:30pm (MDT) (Anthony OBrien)

When: Monday, April 11, 2022 2:00 PM-2:30 PM (UTC-08:00) Pacific Time (US & Canada).

Where:

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

oserafimova@nmag.gov has accepted this invitation.

Conference call to discuss Voter Reference Foundation v. Balderas

When Mon Apr 11, 2022 3pm – 3:30pm Mountain Time - Denver

Calendar Anthony OBrien

Who

- Anthony OBrien - organizer
- oserafimova@nmag.gov - creator
- Anne Kelly

Call-In No.: (888) 204-5984

Participant Code: 9561366

EXHIBIT

P14

exhibitsticker.com

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Invitation from Google Calendar

You are receiving this courtesy email at the account anthony.obrien@doj.ca.gov because you are an attendee of this event.

To stop receiving future updates for this event, decline this event. Alternatively you can sign up for a Google account at <https://calendar.google.com/calendar/> and control your notification settings for your entire calendar.

Forwarding this invitation could allow any recipient to send a response to the organizer and be added to the guest list, or invite others regardless of their own invitation status, or to modify your RSVP. [Learn More.](#)

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 Fusaro Motion to Dismiss and Opp to Pl.pdf
273K

Anthony OBrien <Anthony.OBrien@doj.ca.gov>
To: "oserafimova@nmaq.gov" <oserafimova@nmaq.gov>

[Quoted text hidden]

 **Fusaro Motion for PI Memo.pdf**
373K

Anthony OBrien <Anthony.OBrien@doj.ca.gov>
To: "oserafimova@nmaq.gov" <oserafimova@nmaq.gov>


[Quoted text hidden]

 Fusaro v. Howard MSJ Memo Opinion.pdf
261K

Anthony OBrien <Anthony.OBrien@doj.ca.gov>
To: "oserafimova@nmaq.gov" <oserafimova@nmaq.gov>

[Quoted text hidden]

2 attachments

 **Fuasro Order on PI and Motion to Dismiss.pdf**
83K

Fusaro - Memo Opinion re PI and MTD.pdf

